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Attorneys for Defendant  
CB Richard Ellis, Inc. incorrectly  
sued herein as CB Ellison

ORIGINAL  
FILED  
07 DEC 13 PM 3:33  
MICHAEL W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

COPY

CORNEALIUS LOPES, TERESA LOPES

Plaintiff,

vs.

FREMONT FREEWHEELERS; K&K  
INSURANCE, USA CYCLING NORHTERN  
CALIFORNIA AND NEVADA CYCLING  
ASSOC. (NCNCA), ROBERT PARKER;  
LAWRENCE UP THE GROVE; LLOYD  
RATH; RICHARD BROCKIE, GARY  
BIRCH, SALLY WILSON, JASON SAGE,  
TIM O'HARA, JEFF WRONG, JOSEPH  
DALE WREN C.B. ELLISON, BRYAN  
SHEPPARD, LARRY NOLAN, STEVE  
GRUSIS, LARRY ROSA FREMONT  
FREEWHEELERS RACE TEAM, LIND  
BUFFETTI, JOE BAUGHMAN AND PETER  
ALLEN, FFBC RACE TEAM ALAMEDA  
COUNTY DISTRICT ATTORNEY,  
NEWARK POLICE DEPT., CASEY  
CARRINGTON, JIM DAVIS, ALAMEDA  
COUNTY SHARA MESIC DEPUTY D.A.,  
LISA FARIA DEPUTY D.A. PETAGREW  
DEPUTY D.A.

Defendants.

Case No.: CV 07 6213 JL

DEFENDANT'S MOTION TO DISMISS  
PURSUANT TO RULE 12(b)(6)

Date: January 30, 2008

Time: 9:30 a.m.

Courtroom: Magistrate-Judge James Larson

1 TO PLAINTIFF IN PRO PER:

2 PLEASE TAKE NOTICE THAT on January 30, 2008 at 9:30 a.m. before Magistrate-  
3 Judge James Larson, United States Magistrate Judge, located at Courtroom F, 15<sup>th</sup> Floor at 450  
4 Golden Gate Avenue, San Francisco, CA 94102, or as soon thereafter as may be heard in the  
5 above entitled court, Defendant /Petitioner CB Richard Ellis, Inc. incorrectly sued herein as CB  
6 Ellison will move this court to dismiss this action against it pursuant to Federal Rules of Civil  
7 Procedure, Rule 12(b)(6) because the complaint fails to state a claim upon which relief may be  
8 granted on the grounds that res judicata bars this complaint and that the applicable statute of  
9 limitations bars any claim against the moving party.

10 This motion is based on this notice of motion, the memorandum of points and  
11 authorities accompanying this motion, the pleadings in this action, the request for judicial  
12 notice of plaintiff's prior complaint and dismissal, and such other and further evidence as may  
13 be produced at the time of the hearing.

14  
15  
16 Dated: December 11, 2007

Fortune, Drevlow, O'Sullivan & Hudson

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18  
19 By: 

20 Norman La Force  
21 Attorney for Defendant  
22 CB Richard Ellis, Inc. incorrectly  
23 sued herein as CB Ellison  
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